

REMARKS

This paper is presented in response to the Office Action. By this paper, claims 4, 8, 9, 11, and 15 are canceled, claims 1-3, 7, 10, 13, 14, and 16 are amended, and new claims 17-22 are added. Claims 1-3, 5-7, 9, 10, 12-14, and 16-22 are now pending.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the convenience and reference of the Examiner, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant respectfully notes that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicant has broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicant, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

With specific reference now to the claim amendments, Applicant notes that while claims 1-3, 7, 10, 13, 14, 16 have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicant, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicant hereby reserves the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicant submits that neither the claim amendments set forth herein, nor any other claim amendments or statements advanced by the Applicant in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

II. Objections to the Drawings and Specification

The Examiner has objected to the drawings and specification based on various informalities. Applicant submits that in light of amendments set forth herein to the drawings and specification, the objections have been overcome and should be withdrawn.

III. Rejection of Claim 4 under 35 U.S.C. § 112

The Examiner has rejected claim 4 under 35 U.S.C. § 112, Second Paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Inasmuch as claim 4 has been cancelled herein, Applicant respectfully submits that the indefiniteness rejection of that claim has been rendered moot and should accordingly be withdrawn.

IV. Rejection of Claims 1, 2, 5-9, and 12 under 35 U.S.C. § 102

Applicant respectfully notes that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (c) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP § 2131*.

The Examiner has rejected claims 1, 2, 5-9, and 12 under 35 U.S.C. § 102(b) as being purportedly anticipated by U.S. Patent No. 5,337,398 to Benzoni et al. ("*Benzoni*"). Initially, inasmuch as claims 8 and 9 have been cancelled herein, Applicant respectfully submits that the anticipation rejection of that claim has been rendered moot and should accordingly be withdrawn. Regarding claims 1, 2, 5-7, and 12, Applicant respectfully disagrees with the contention of the Examiner but submits that for at least the reasons set forth below, the rejection of those claims is moot and should be withdrawn.

By this paper, Applicant has amended independent claim 1 to recite in part "...the bottom of the transceiver housing defining a pair of optical port slots; a transceiver substrate disposed within the transceiver housing so that the transceiver substrate is oriented substantially perpendicularly with respect to the top and bottom of the transceiver housing, the transceiver substrate including an electrical connector located proximate the bottom of the transceiver housing..." Support for this amendment to claim 1 can be found, for example, at least at Figure 1A. In contrast, the Examiner has not established that *Benzoni*, either alone or in combination with any other reference, teaches or suggests the aforementioned limitations in combination with the other limitations of claim 1.

Additionally, Applicant has amended independent claim 7 herein to recite in part "...a transceiver housing within which the transceiver substrate, receive optical assembly, and transmit optical assembly are at least partially disposed, the transceiver housing including an interior wall that is substantially

parallel to respective axes defined by the transmit and receive optical subassemblies, and the interior wall at least partially defines both first and second optical ports, a bottom of the transceiver housing defining a pair of optical port slots such that each of the optical port slots communicates with a corresponding optical port.” Support for this amendment to claim 7 can be found, for example, at least at Figure 1A. In contrast, the Examiner has not established that *Benzoni*, either alone or in combination with any other reference, teaches or suggests the aforementioned limitations in combination with the other limitations of claim 7.

In light of the foregoing, Applicant respectfully submits that the Examiner has not established that *Benzoni* anticipates either of claims 1 or 7, at least because the Examiner has not established that each and every element as set forth in claims 1 and 7 is found in *Benzoni*, because the Examiner has not established that the identical invention is shown in *Benzoni* in as complete detail as is contained in amended claims 1 and 7, and because the Examiner has not shown that *Benzoni* discloses the elements of claims 1 and 7 arranged as required by those claims.

Applicant thus respectfully submits that the rejection of claims 1 and 7, as well as the rejection of corresponding dependent claims 2, 5, 6, and 12, should be withdrawn.

V. Rejection of Claims 3, 4, 10, 11, and 13-16 under 35 U.S.C. § 103

Applicant respectfully notes at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

The Examiner has rejected claims 3, 4, 10, 11, and 13-16 under 35 U.S.C. § 103(a) as being purportedly obvious over *Benzoni* in view of a non-patent reference (“X2-MSA”) or in view of U.S. Patent Application Publication No. 2005/0031347 to Soto et al. (“*Soto*”). Initially, inasmuch as claims 4, 11, and 15 have been cancelled herein, Applicant respectfully submits that the obviousness rejection of those claims has been rendered moot and should accordingly be withdrawn. Regarding claims, 3, 10, 13, 14, and 16, Applicant respectfully disagrees with the contention of the Examiner and submits that for at least the reasons set forth below, the rejection of those claims should be withdrawn.

ii. Claims 3 and 10

Claims 3 and 10 respectively depend from claims 1 and 7, which, as noted previously, have been amended herein. By virtue of their dependence from independent claims 1 and 7, dependent claims 3 and

10 respectively require all the limitations of claims 1 and 7. As noted above however, the Examiner has not established that *Benzoni*, either alone or in combination with any other reference, discloses all the limitations of claims 1 and 7.

Accordingly, Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness with respect to claims 3 and 10, at least because the Examiner has not established that the references, when combined in the purportedly obvious fashion, teach or suggest all the limitations of the rejected claims. Applicant thus respectfully submits that the rejection of claims 3 and 10 should accordingly be withdrawn.

iii. **Claims 13, 14, and 16**

By this paper, Applicant has amended independent claim 13 to recite in part "...a substantially box-shaped transceiver housing in which the transceiver substrate, receive optical sub-assembly, and transmit optical sub-assembly are positioned, at least one optical port slot being defined in a bottom of the substantially box-shaped transceiver housing." Support for this amendment to claim 13 can be found, for example, at least at Figure 1A.

In contrast, the Examiner has not established that *Benzoni*, or X2-MSA or *Soto*, alone or in combination with each other or with any other reference, teach or suggest the aforementioned limitations in combination with the other limitations of claim 13.

In light of the foregoing, Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness with respect to claim 13, at least because the Examiner has not established that the references, when combined in the purportedly obvious fashion, teach or suggest all the limitations of the rejected claim 13. Applicant thus respectfully submits that the rejection of claim 13, as well as corresponding dependent claims 14 and 16 should be withdrawn.

VI. **Obviousness Type Double Patenting Rejection of claims 1, 3-5, 7-11, 13, 15, and 16**

The Examiner has rejected claims 1, 3-5, 7-11, 13, 15, and 16 under the judicially created doctrine of obviousness-type double patenting in view of claims 2, 6, and 8 of U.S. Patent No. 7,215,889 to Light ("*Light*"). Initially, inasmuch as claims 4, 8, 9, 11, and 15 have been cancelled herein, Applicant respectfully submits that the obviousness type double patenting rejection of those claims has been rendered moot and should accordingly be withdrawn. Regarding claims 1, 3, 5, 7, 10, 13, and 16, Applicant respectfully disagrees with the contention of the Examiner and submits that for at least the reasons set forth below, the rejection of those claims is moot and should be withdrawn.

As noted above, claims 1, 7, and 13, from which all other claims depend, have been amended herein. Inasmuch as the Examiner has not shown that the amended claims are obvious variants of the

claims set forth in U.S. 7,215,889, the rejection of those claims on obviousness-type double patenting grounds should be withdrawn.

VII. New Claims 17-22

By this paper, Applicant has added new claims 17-22 which variously depend from claims 3 and 10. Support for the new claims can be found in the application at, for example, Figures 1A-1C and the corresponding discussion in the specification.

CONCLUSION

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-3, 5-7, 10, 12-14, and 16-22 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 9th day of October 2007.

Respectfully submitted,

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